

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,
Plaintiff/Respondent,
vs.
ROBERT CHARLES SCOTT,
Defendant/Movant.

Cause No. CR 17-134-BLG-DLC

ORDER

This case comes before the Court on Defendant/Movant Robert Charles Scott's motion to vacate, set aside, or correct his sentence, pursuant to 28 U.S.C. § 2255. Scott is a federal prisoner proceeding pro se. *See* Order (Doc. 76).

After various delays related to Scott's dissatisfaction with counsel appointed to represent him on the § 2255 motion, *see* Order (Doc. 85) at 5–6, the Court denied one claim, *see id.* at 6–11, and required the United States to respond to the other, *see id.* at 11–15. Scott was permitted but not required to reply. *See* Order (Doc. 85) at 17 ¶ 3.

The United States responded on June 14, 2021. *See* U.S. Resp. and Exs. (Docs. 98, 99); *see also* Protective Order (Doc. 100). More than once, the United States attempted to serve its response on Scott, only to have its mail returned as undeliverable. *See* Notice (Doc. 104) at 1–2. Mail the clerk sent to Scott was also returned as undeliverable. *See* Docket Entries (Docs. 102, 103). On July 9, 2021,

the United States filed notice that it delivered its response to Scott's probation officer. *See* Notice (Doc. 104).

Scott's second claim alleges that he told counsel he wanted to appeal, counsel said he would, and yet counsel did not file the appeal. *See* Mot. § 2255 (Doc. 48) at 3 ¶ 11(d). Counsel's affidavit states that he does not recall that Scott said, after sentencing, that he wanted to appeal. Counsel expresses grave doubt such a conversation occurred, for reasons that he sets forth and that are reflected in the record of the case. *See* Counsel Aff. (Doc. 99-1) at 2–3 ¶¶ 5–6. Scott has not responded.

Accordingly, IT IS ORDERED:

1. On or before **January 28, 2022**, Scott must state whether he intends to proceed with motion under 28 U.S.C. § 2255.
2. The clerk shall include copies of the United States' response to his motion (Docs. 98, 99) with Scott's service copy of this Order and shall serve Scott at the mailing address on record.

DATED this 11th day of January, 2022.



Dana L. Christensen
Dana L. Christensen, District Judge
United States District Court